

- (2) County and municipal court bailiffs who receive compensation for duties are included.
- (3) City attorneys are included.
- (4) Judicial magistrates are included unless they elect out of IPERS coverage. Having made a choice to remain in IPERS coverage, a judicial magistrate may not revoke that election and discontinue such coverage.
- (5) Office and clerical staff of a county medical examiner's office are included, but county medical examiners and deputy county medical examiners are excluded.
- (6) Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 are included. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer, are to be treated as firefighters. Effective January 1, 1995, part-time police officers are covered in the same manner as full-time police officers. In accordance with Iowa Code section 80D.14, reserve peace officers employed under Iowa Code chapter 80D are excluded from coverage. In accordance with Iowa Code sections 384.6(1) and 411.3, a police chief or fire chief who has submitted a written request to the board of trustees created by section 411.36 to be exempt from chapter 411 is also exempt from coverage under IPERS. The city shall make contributions on behalf of such persons to the international city management association/retirement corporation.
- (7) County social welfare employees are included.
- (8) Members of county soldiers relief commissions and their administrative or clerical employees are included.
- (9) Part-time elected mayors, mayors of townships, and mayors that are paid on a fee basis are covered under IPERS unless they elect out of coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.
- (10) Field assessors are included.
- (11) Members of county boards of supervisors who receive an annual salary are included. Effective for terms of office beginning January 1, 1999, and later part-time members of county boards of supervisors who receive an annual salary or are paid on a per diem basis are included unless they elect out of coverage.
- (12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year are included unless the employee elects out of coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.
- (13) Persons hired for temporary employment are excluded from IPERS' coverage providing that they have not established an ongoing relationship with an IPERS-covered employer. Effective January 1, 1993, an ongoing relationship with an IPERS-covered employer is established when the employee is paid covered wages of \$300 or more per quarter in two consecutive quarters, or if the employee is employed by a covered employer for 1,040 or more hours in a calendar year. Coverage will begin when the permanency of the relationship is established, and shall continue until the employee's relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer will continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to a temporary employee who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the employee is on an approved leave of absence. Contributions shall be paid, and service credit accrued, when wages are paid in the quarter after the ongoing relationship has been established.

(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts are included unless they elect out of coverage.

(15) A county attorney is included as an employee whether or not employed on a full- or part-time basis.

(16) Tax study committee employees are included.

(17) Rescinded IAB 7/22/92, effective 7/2/92.

(18) School bus drivers who are considered to be public employees are included. School bus drivers who are independent contractors are excluded. A determination must be made by IPERS on the facts presented on a case-by-case basis.

(19) Persons who are enrolled as students and whose primary occupations are as students are not covered. Full-time and part-time students who are employed by the institutions where they are enrolled as students are not covered. Full-time and part-time students who are employed full-time by a covered employer other than the institution where they are enrolled are covered. Part-time students who are employed part-time by a covered employer other than the institution in which they are enrolled are covered. Full-time students who are employed part-time by a covered employer are not covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers.

(20) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their field of specialized knowledge or skill are all excluded from coverage.

(21) Members of any other retirement system in Iowa maintained in whole or part by public funds are excluded. Effective July 1, 1996, an employee who is employed by a covered employer other than the employer that makes contributions on the member's behalf to such other retirement system in Iowa shall be a covered employee, unless the employee receives credit in such other retirement system for both jobs.

(22) Members who are contributing to the federal civil service retirement system or federal employees retirement system are excluded. Effective July 1, 1996, an employee who is employed by a covered employer other than the employer making contributions to such federal retirement systems shall be a covered employee, unless the employee receives credit in such federal retirement systems for both jobs.

(23) Employees of credit unions without capital stock organized and operated for mutual purposes without profit are excluded.

(24) Members of the ministry, rabbinate or other religious order who perform full- or part-time religious service for a covered employer are included; but members of the ministry, rabbinate or other religious order who have taken the vow of poverty are included, unless they elect out of coverage.

(25) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer is included; but any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income is excluded, except for city attorneys and health officials.

(26) Interns and resident doctors in the employ of a state or local hospital, school or institution are excluded.

(27) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, are included.

(28) Effective July 1, 1994, volunteer firefighters and special police officers are considered temporary employees and will be covered if they meet the requirements of 581 IAC 21.5(1)“a”(13).

(29) Residents or inmates of county homes are excluded.

(30) Members of the state transportation commission, the board of parole, and the state health facilities council are included unless they elect out of coverage.

(31) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state if the city had made contributions to the system for employees performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

(32) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 are included unless they elect out of coverage.

(33) Employees appointed by the state board of regents are covered unless, at the discretion of the state board of regents, they elect coverage in a retirement system qualified by the state board of regents.

(34) School employees who work in additional positions along with normal duties with the same employer will be considered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and Phase I, II, and III employment.)

(35) “Adjunct instructors” employed by a community college or university are excluded from coverage. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or noncredit contact hours that the community college or university considers to be a full-time teaching load for a regular full semester or quarter, as the case may be. In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period. If there is no formal severance, an adjunct instructor who becomes a covered employee will remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence.

(36) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor are not covered unless: (a) both the enrollee and the covered employer elect coverage; or (b) the enrollee is currently contributing to IPERS. A covered employer is defined as the host agency where the enrollee is placed for training.

(37) Effective July 1, 1994, employees of area agencies on aging are excluded from coverage if the area agency has provided for participation by all of its eligible employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code. If an area agency on aging does not have or terminates participation in an alternative plan, coverage under IPERS shall begin immediately.

(38) Effective July 1, 1994, arson investigators are no longer covered under IPERS. They were transferred to public safety peace officers' retirement, accident and disability system.

(39) Persons who meet the requirements of independent contractor status as determined by IPERS using the criteria established by the federal Internal Revenue Service are not included.

(40) Effective July 1, 1994, a person employed on or after that date for certain public safety positions is excluded from IPERS coverage. These positions are gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers, and employees of the division of capitol police (except clerical workers).

(41) Employees of area community colleges are included unless they elect coverage under an alternative system pursuant to a one-time irrevocable election.

(42) Volunteer emergency personnel, such as ambulance drivers, are considered temporary employees and will be covered if they meet the requirements of 581 IAC 21.5(1) "a"(13). Persons who meet such requirements will be covered under the protection occupation requirements of Iowa Code section 97B.49(16) if they are considered firefighters by their employers; otherwise they are covered under Iowa Code section 97B.11.

(43) Employees of the Iowa department of public safety hired pursuant to Iowa Code chapter 80 as peace officer candidates are excluded from coverage.

(44) Persons employed through any program described in Iowa Code section 15.225, subsection 1, and provided by the Iowa conservation corps shall not be covered.

(45) Appointed and full-time elective members of boards and commissions who receive a set salary shall be covered. Effective January 1, 1999, part-time elective members of boards and commissions not otherwise described in these rules who receive a set salary are included unless they elect out of coverage. Members of boards, other than county boards of supervisors, and commissions, including appointed and elective full-time and part-time members, who receive only per diem and expenses shall not be covered.

(46) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

(47) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

(48) Persons who are employed by professional employment organizations, temporary staffing agencies, and similar noncovered employers and are leased to covered employers shall be excluded. Notwithstanding the foregoing, persons who are employed by a covered employer and leased to a non-covered employer shall be covered.

(49) Effective July 1, 1999, persons performing referee services for varsity and junior varsity athletic events for which a license is needed from the Iowa high school athletic association shall be excluded from coverage.

b. Each employer shall ascertain the federal social security account number of each employee subject to IPERS.

c. Rescinded IAB 7/5/95, effective 8/9/95.

21.5(2) The employer shall report the employee's federal social security account number in making any report required by IPERS with respect to the employee.

21.5(3) to 21.5(6) Rescinded IAB 7/22/92, effective 7/2/92.

21.5(7) Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for any position held.

This rule is intended to implement Iowa Code sections 97B.1A(8), 97B.42, 97B.42A, 97B.42B, 97B.49C, and 97B.52A.

581—21.6(97B) Wage reporting and payment of contributions by employers.

21.6(1) Any public employing unit whose combined employer/employee IPERS contribution tax equals or exceeds \$100 per month is required to pay the tax on a monthly basis. All other employing units are required to file wage reports and pay the contribution tax on a quarterly basis. When IPERS becomes aware of the correct payment and reporting status of an employing unit, IPERS will send to the reporting official a supply of the employer remittance advice forms.

21.6(2) Each periodic wage reporting form must include all employees who earned reportable wages or wage equivalents under IPERS. If an employee has no reportable wage in a quarter but is still employed by the employing unit, the employee should be listed with zero wages. If the total amount of employer and employee contributions is \$1 or less, wages shall be reported as zero for that member in that quarter.

21.6(3) All checks in payment of the total contribution tax shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117.

21.6(4) For employers filing quarterly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid.

For employers filing monthly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid.

Any employer filing monthly or quarterly employer remittance advice forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. The combining of contributions due for payment from two or more entities into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid. Upon the request of the employer, IPERS may grant a waiver of the requirement which prohibits the combining of contributions. A single entity which has several accounts will be required to report all wages under one main account effective January 1, 1995.

21.6(5) A request for an extension of time to pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 30 days after the end of the calendar quarter. If an employer who has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted.

To establish good cause for an extension of time to pay, the employer must show that the failure to pay was not due to mere negligence, lack of ordinary care or attention, carelessness or inattention. The employer must affirmatively show that it did not pay timely because of some occurrence beyond the control of the employer.

21.6(6) When an employer has no reportable wages or no wages to report during the applicable reporting period, the periodic wage reporting document should be marked "no reportable wages" or "no wages" and returned to IPERS. When no employer's wage report is made, the employing unit's account is considered delinquent for the reporting period until the report is filed.

21.6(7) Substitute forms may be used if they meet all the IPERS reporting requirements and the employing unit receives advance approval from IPERS.

21.6(8) Magnetic tape reporting may be used by an employer after submitting a written request to IPERS. When the request is received, IPERS will send the employer a copy of the specifications for this type of reporting.

21.6(9) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

a. All covered members, except those identified in 21.6(9) “*b*” and “*c*.”

(1) Member’s rate—3.7%.

(2) Employer’s rate—5.75%.

b. Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 1999.

(1) Member’s rate—5.69%.

(2) Employer’s rate—8.54%.

c. Members employed in a protection occupation, effective July 1, 1999.

(1) Member’s rate—5.58%.

(2) Employer’s rate—8.38%.

d. Members employed in a “protection occupation” shall include:

(1) Conservation peace officers.

(2) Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400, or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See definitions of employee in subrule 21.5(1).)

Effective January 1, 1995, part-time police officers will be included.

(3) Correctional officers as provided for in Iowa Code section 97B.49B.

Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date, shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

(4) Airport firefighters employed by the military division of the department of public defense. Effective July 1, 1994, airport firefighters employed by the military division of the department of public defense shall pay the same contribution rate, and receive benefits under the same formula, as sheriffs and deputy sheriffs. Service under this subrule includes all membership service in IPERS as an airport firefighter.

(5) Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more.

(6) Rescinded IAB 7/5/95, effective 8/9/95.

(7) Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

(8) Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

(9) Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district of the department of correctional services.

(10) Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district of the department of correctional services.

e. Prior special rates are as follows:

Effective July 1, 1998, through June 30, 1999:

1. Sheriffs, deputy sheriffs, and airport firefighters—member’s rate—6.34%; employer’s rate—9.51%.

2. Protection occupation—member’s rate—5.61%; employer’s rate—8.41%.

f. Pretax.

(1) Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

(2) Salaries reportable for purposes other than federal income tax will not be reduced, including IPERS, FICA, and, through December 31, 1998, state income tax purposes.

(3) Effective January 1, 1999, employers must pay member contributions on a pretax basis as provided in subparagraph (1) above for both federal and state income tax purposes.

21.6(10) Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

This rule is intended to implement Iowa Code sections 97B.49A to 97B.49I.

581—21.7(97B) Accrual of interest. Interest as provided under Iowa Code section 97B.9 shall accrue on any contributions not received by IPERS by the due date, except that interest may be waived by IPERS upon request prior to the due date by the employing unit, if due to circumstances beyond the control of the employing unit.

This rule is intended to implement Iowa Code section 97B.9.

581—21.8(97B) Refunds and returns of erroneously paid contributions.

21.8(1) Refund formula. A member is eligible for a refund of the employee accumulated contributions 30 days after the member's last paycheck is issued from which IPERS contributions will be deducted. Effective July 1, 1999, a vested member's refund shall also include a portion of the employer accumulated contributions. Refund amounts are determined as follows:

a. Employee accumulated contributions. Upon receiving an eligible member's application for refund, IPERS shall pay to the terminated member the amount of the employee accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon reconciliation of the final employee contributions for that member, a supplemental refund of the employee accumulated contributions will be paid.

b. Employer accumulated contributions. Effective July 1, 1999, IPERS shall also pay to vested members, in addition to the employee accumulated contributions, a refund of a portion of the employer accumulated contributions. The refundable portion shall be calculated by multiplying the employer accumulated contributions by the "service factor." The "service factor" is a fraction, the numerator of which is the member's quarters of service and the denominator of which is the "applicable quarters." The "applicable quarters" shall be 120 for regular members, 100 for protection occupation members, and 88 for sheriffs, deputy sheriffs and airport firefighters. All quarters of service credit shall be included in the numerator of the service factor. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

In addition to the foregoing provisions, IPERS shall calculate the refundable portion of the employer accumulated contributions as follows:

(1) Upon reconciliation of the final employer contributions for that member, the member's portion of the employer accumulated contributions will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of employer accumulated contributions to be included in the supplemental refund.

(2) The member's portion of employer accumulated contributions shall be determined under subrule 21.8(2) below if the member had a combination of regular service and special service, or a combination of different types of special service.

(3) In making calculations under this subrule and subrule 21.8(2) below, IPERS shall round to not less than six decimal places to the right of the decimal point.

21.8(2) Refunds for members eligible for a hybrid refund. Effective July 1, 1999, the calculation of the member's portion of employer accumulated contributions for a "hybrid refund" shall be as follows:

a. A "hybrid refund" is a refund that is calculated for a member who has a combination of regular service and special service quarters, or a combination of different types of special service quarters.

b. If a member is eligible for a hybrid refund, the member's portion of employer accumulated contributions shall be calculated by multiplying the total employer accumulated contributions by: (1) the member's regular service factor, if any; and (2) the protection occupation service factor, if any; and (3) the sheriff/deputy sheriff/airport firefighter service factor, if any (except as otherwise provided in this subrule). The amounts obtained will be added together to determine the amount of the employer accumulated contributions payable. In no event will a member ever receive an amount in excess of 100 percent of the employer accumulated contributions for that member.

c. Upon reconciliation of the final contributions from a member's employer, the member's portion of the employer accumulated contributions under this subrule will be recalculated. IPERS will add the additional quarter(s) of service to the numerator of the applicable service factor. The adjusted service factor will be multiplied by the sum of the original employer accumulated contributions plus the supplemental employer accumulated contributions. The employer accumulated contributions included in the original refund will then be subtracted from that recalculated figure to determine the amount of the employer accumulated contributions to be included in the supplemental refund.

d. If wages reported for a quarter are a combination of regular and special service wages, or different types of special service wages, IPERS will classify the service credit for each quarter based on the largest dollar amount reported for that quarter. A member shall not receive more than one quarter of service credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

e. If a member is last employed in a sheriff, deputy sheriff, or airport firefighter position, all quarters of "eligible service," as defined in Iowa Code section 97B.49C(1) "d," shall be counted as quarters of sheriff/deputy sheriff/airport firefighter service credit.

f. A special limitation applies to hybrid refunds where the member and employer contributed at regular rates for quarters that are eligible for coverage under Iowa Code section 97B.49B or Iowa Code section 97B.49C. If a member has regular service credit and special service credit, and any part of the special service credit consists of quarters for which only regular contributions were made, such quarters will be counted as regular service quarters. However, the foregoing limitation will not apply if the member only has service credit eligible for coverage under Iowa Code section 97B.49B, or only has service credit eligible for coverage under Iowa Code section 97B.49C.

g. Except as described above, this subrule shall not be construed to require or permit service eligible for coverage under Iowa Code section 97B.49B to be treated as special service under Iowa Code section 97B.49C, or vice versa, when determining the percentage payable under this subrule.

21.8(3) Refund of retired reemployed member's contributions.

a. *Less than six months.* A retired member who returns to permanent covered employment, but who resigns within six months of the date the reemployment began, is eligible to have the member contributions for this period refunded. The contributions made by the employer will be refunded to the employer.

b. *Six months or longer.* A retired member who returns to permanent employment and subsequently terminates the member's employment may elect to receive an increased monthly allowance, or a refund of the member's accumulated contributions and, effective July 1, 1998, employer's accumulated contributions accrued during the period of reemployment. A reemployed member who elects a refund under this subrule in lieu of an increased monthly allowance shall forfeit all other rights to benefits under the system with respect to the period of reemployment. If IPERS determines that the reemployment will not increase the amount of a member's monthly benefit, a member shall only elect the refund.

21.8(4) General administrative provisions. In addition to the foregoing, IPERS shall administer a member's request for a refund as follows:

a. To obtain a refund, a member must file a refund application form, which is available from IPERS or the member's employer.

b. The last pay date must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year. The employee's "termination date" is the last date on which the employee was paid and certified by the employer on the IPERS refund application. The applicant's signature must be notarized. Terminated employees must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

c. Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the refund warrant, the agent must present to IPERS both the written designation and the described picture identification.

d. No payment of any kind shall be made under this rule if the amount due is less than \$1.

21.8(5) Emergency refunds.

a. IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:

- (1) The member files an application for refund on a form provided by IPERS;
- (2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and
- (3) The member provides IPERS with payment instructions either in person or in writing.

b. Financial hardship or unforeseeable emergency includes:

- (1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;
- (2) Loss of a member's property due to casualty; or
- (3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.

21.8(6) *Erroneously reported wages for employees not covered under IPERS.* Employers who erroneously report wages for employees that are not covered under IPERS may secure a warrant or credit, as elected by the employer, for the employer's contributions by filing an IPERS periodic wage reporting adjustments form available from IPERS. An employer that files a periodic wage reporting adjustments form requesting a warrant or credit shall receive a warrant or credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share and for filing corrected federal and state wage reporting forms. Warrants will not be issued by IPERS if the amount due is less than \$1. In such cases, the credit will be transferred to the employer's credit memo. Under no circumstance shall the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages shall never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on IPERS refund application form will not be permitted to file a periodic wage reporting adjustments form for that employee for the same period of time.

21.8(7) *Contributions paid on wages in excess of the annual covered wage maximum.* Effective for wages paid in calendar years beginning on or after January 1, 1995, IPERS shall automatically issue to each affected employer a warrant or credit, as elected by the employer, of both employer and employee contributions paid on wages in excess of the annual covered wage maximum for a calendar year. A report will be forwarded to each such employer detailing each employee for whom wages were reported in excess of the covered wage ceiling. Warrants or credits for the excess contributions made will be issued to the employers upon IPERS' receipt of certification from said employers that the overpayment report is accurate. Warrants will not be issued if the amount due is less than \$1. In such cases, the credit will be transferred to the employer's credit memo. The employer is responsible for returning the employee's share of excess contributions. Where employees have simultaneous employment with two or more employers and as a result contributions are made on wages in excess of the annual covered wage maximum, warrants or credits for the excess employer and employee contributions shall be issued to each employer in proportion to the amount of contributions paid by the employer.

21.8(8) *Termination within less than six months of the date of employment.* If an employee hired for permanent employment resigns within six months of the date of employment, the employer may file IPERS' form for reporting adjustments to receive a warrant or the credit, as elected by the employer, for both the employer's and employee's portion of the contributions. It is the responsibility of the employer to return the employee's share. "Termination within less than six months of the date of employment" means employment is terminated prior to the day before the employee's six-month anniversary date. For example, an employee hired on February 10 whose last day is August 8 would be treated as having resigned within less than six months. An employee hired on February 10 whose last day is August 9 (the day before the six-month anniversary date, August 10) would be treated as having worked six months and would be eligible for a refund.

This rule is intended to implement Iowa Code sections 97B.10, 97B.46 and 97B.53.

581—21.9(97B) Appeals.**21.9(1) Procedures.**

a. A party who wishes to appeal a decision by IPERS other than a special service classification shall, within 30 days after notification was mailed to the party's last-known address, file with IPERS a notice of appeal in writing setting forth:

- (1) The name, address, and social security number of the applicant;
- (2) A reference to the decision from which the appeal is being made;
- (3) The fact that an appeal from the decision is being made; and
- (4) The grounds upon which the appeal is based.

Upon receipt of the appeal, IPERS shall conduct an internal review of the facts and circumstances involved, in accordance with its appeal review procedure. IPERS shall issue a final agency decision which becomes final unless within 30 days of issuance the member files a notice of further appeal. Upon receipt of notification of further appeal, IPERS shall inform the department of inspections and appeals of the filing of the appeal and of relevant information pertaining to the case in question. In determining the date that an appeal or any other document is filed with IPERS or the department of inspections and appeals, the following shall apply: An appeal or any other document delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt. The department of inspections and appeals shall hold a hearing on the case and shall affirm, modify, or reverse the decision by IPERS.

b. Members shall file appeals of their special service classifications with their respective employers, using the appeal procedures of such employers. The appeal procedures for department of corrections employees shall be specified in rules adopted by the personnel division of the Iowa department of personnel. IPERS shall have no jurisdiction over special service classification appeals.

21.9(2) The determination of appeals. Following the conclusion of a hearing of an appeal, the administrative law judge within the department of inspections and appeals shall announce the findings of fact. The decision shall be in writing, signed by the administrative law judge, and filed with IPERS, with a copy mailed to the appellant. Such decision shall be deemed final unless, within 30 days after the issuance date of such decision, further appeal is initiated. The issuance date is the date that the decision is signed by the administrative law judge.

21.9(3) Appeal board. A party appealing from a decision of an administrative law judge shall file a notice with the employment appeal board of the Iowa department of inspections and appeals, petitioning the appeal board for review of the administrative law judge's decision. In determining the date that a notice of appeal or any other document is filed with the employment appeal board, and subject to applicable exceptions adopted by the employment appeal board in IAC [486], the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed as of the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed as of the date that it is received.

21.9(4) Judicial review. The appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the appeal board or within 30 days a petition for judicial review is filed in the appropriate district court. The department, in its discretion, may also petition the district court for judicial review of questions of law involving any of its decisions. Action brought by the department for judicial review of its decisions shall be brought in the district court of Polk County, Iowa.

21.9(5) Contested case procedure. Appeals of decisions by IPERS that are heard by the department of inspections and appeals shall be conducted pursuant to the rules governing contested case hearings adopted by the department of inspections and appeals under 481—Chapter 10.

This rule is intended to implement Iowa Code sections 97B.16, 97B.20, 97B.20A, 97B.20B, 97B.27 and 97B.29.

581—21.10(97B) Beneficiaries.

21.10(1) Designation of beneficiaries. To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits is accepted by IPERS in lieu of a completed designation form. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 retiree may name someone other than the member's contingent annuitant as beneficiary, but only for death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member. If a reemployed IPERS Option 4 retiree dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the death benefits awarded in a qualified domestic relations order (QDRO) shall be paid to the contingent annuitant as alternate payee, and the remainder of the death benefits shall be paid to the member's estate, or the member's heirs if no estate is probated.

21.10(2) Change of beneficiary. The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

21.10(3) Payments to a beneficiary. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, together with information establishing the claimant's right to payment. A named beneficiary must complete IPERS' application for death benefits based on the deceased member's account.

21.10(4) Where the designated beneficiary is an estate, trust, church, charity or other like organization, payment of benefits shall be made in a lump sum only.

21.10(5) Rescinded IAB 7/5/95, effective 8/9/95.